

# Proposed CRC Rule Changes



Provider Webinar - August 3, 2018



Bright from the Start: Georgia Department of Early Care and Learning

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# Background Check Update New Federal Requirements

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# Upcoming Rule changes

- Rules related to CRC for:
  - CCLC
  - FCCLH
  - Support Centers
- Board Vote- August 16, 2018
- Implementation- October 1, 2018

# The Child Care and Development Block Grant Act

- The CCDBG Act was reauthorized in 2014.
- A Final Rule was published in 2016.
- The law and rule require comprehensive background checks be completed for child care staff members.



# Components of a Criminal Background Check

The Final Rule defines a comprehensive background check to include:

- An FBI fingerprint check using Next Generation Identification
- A search of the National Crime Information Center's National Sex Offender Registry
- A search of the following registries in the state where the staff member resides and each state where the staff member resided during the past 5 years:
  - State criminal repository (with fingerprints required in the state of residence);
  - State sex offender registry; and
  - State-based child abuse and neglect registry or database.

[45 CFR 98.43(b)]

# Primary Changes- Effective 10/1/18

- “Local” records checks (name-based from local law enforcement under purpose code W) will no longer be sufficient for a person to be employed in a child care facility.
- At minimum, everyone must have a satisfactory Fingerprint-based Records Check Determination issued by DECAL.

# Primary Changes- Effective 10/1/18 con't.

- **Provisional Employee (new definition)**= person with a valid and current satisfactory **Fingerprint-based Records Check Determination**
- All Provisional Employees must be supervised at all times by someone with a satisfactory Comprehensive Records Check Determination.
- All **Directors and Employees** are required to have a valid and current **Comprehensive Records Check Determination**.



# Primary Changes- Effective 10/1/18 con't.

- If an individual has had a break in service from the child care industry of 180 days (six months) or longer, they need to get a new clearance letter.
- Clearance letters issued by DECAL are only portable to a new facility if it is transferred electronically before the employee is hired.



# Primary Changes- Effective 10/1/18 con't.

- Fingerprint requirements apply to all employees, regardless of age
  - Exception= Residents, required for age 17 and older

# Rule Revision Examples



# New Covered Crimes

- Battery of an unborn child
- Reckless conduct causing harm when the victim is a minor
- Cruelty to children
- Child care facility operators being prohibited from employing or allowing to reside or be domiciled persons with certain past criminal violations
- Obscenity and related offenses where the victim is a minor

# New Covered Crimes- con't.

- Endangering a child while driving under the influence of alcohol or drugs
- Failing to report if mandated to do so by law
- Child pornography
- Abuse of, endangerment of, or sexual assault against a child by an adult
- Violent misdemeanor against a child by an adult

# New Definitions

- Comprehensive Records Check Determination
- Fingerprint Records Check Determination
- Director
- Employee
- Provisional Employee
- Valid Evidence

# Definitions

**“Employee”** means any person, other than a Director or Provisional Employee, who has submitted a Records Check Application and has received a satisfactory **Comprehensive Records Check Determination** and who:

1. Regardless of age, is compensated by a Center for the care of children; or
2. Regardless of age, cares for, supervises or has unsupervised access to children at the Center; or
3. Is 17 years of age or older and resides at the facility; or
4. Regardless of age, performs duties for or services that benefit the Center, with or without compensation, which involve personal contact between that person and any child being cared for by the Center, including but not limited to volunteers that perform consistent services for the Center, where services are considered consistent when provided more than once in a ninety calendar day period; or
5. Regardless of age, is a parent or legal guardian of a child in care who is deemed an employee by the Center or either resides at the Center and is age 17 or older, or is compensated in any fashion by the Center except through appropriate state or federal funds; or
6. Regardless of age, is an independent contractor hired by the Center to offer supplemental educational or physical activities for children in care; or
7. Regardless of age, is a Student-in-Training.

# Definitions

“**Provisional Employee**” means a person other than a Director or Employee, who has submitted a Records Check Application to become an Employee and has not received a Comprehensive Records Check Determination but who has received a satisfactory **Fingerprint Records Check Determination** and who *must be supervised* at all times by another Staff member who has a current and valid satisfactory Comprehensive Records Check Determination on file.



# Portability

Portability for Directors, Employees and Provisional Employees, excluding Students-in-Training:

- Only the most recently issued determination letter is eligible for portability and must be ported electronically.
- May accept a satisfactory Fingerprint Records Check Determination letter or a satisfactory Comprehensive Records Check Determination letter if:
  - Records Check Clearance Date is within the preceding 12 months from the hire date,
  - the individual has not had a lapse of employment from the child care industry that lasted for 180 days (6 months) or longer, and
  - the Center does not know or reasonably should not know that the individual's satisfactory status has changed.

# Recheck Required

● **Recheck Required.** The Center must immediately require that every Director, Employee and Provisional Employee submit to the Comprehensive Records Check Determination process at the following times:

1. When the Center knows or reasonably should know that a Director, Employee or Provisional Employee has been arrested or charged for any covered Crime;
2. When there is a **lapse of employment** from the child care industry **that lasted for 180 calendar days** (6 months) or longer;
3. At least once every five years; and
4. When the Department so requests.

# Field Trips

- Every person enlisted to assist in the supervision of children, other than a Parent, must comply with the background check requirements as outlined in Rule 591-1-1-.09., Criminal Records and Comprehensive Background Checks.

# Provider Questions

1. My employee has a satisfactory local GCIC background check. Can s/he work at my center?

No. On and after October 1, 2018, federal law dictates that local GCIC background checks are no longer acceptable. Every real and potential employee must have, at minimum, a valid and current satisfactory Fingerprint Records Check Determination issued by the state.

2. Why can we no longer use a local GCIC background check for provisional employees?

The federal law will not allow the use of a local state level check. Federal law requires everyone onsite to care for children have at least a national fingerprint-based clearance. This is not a DECAL requirement; it's a federal law requirement.

# Provider Questions - continued

3. My employee received a satisfactory Fingerprint Records Check Determination clearance letter. What does that mean?

A Fingerprint Records Check Determination clearance letter is issued by DECAL after a check of the national FBI criminal history database based on fingerprint data.

Anyone who has a valid and current satisfactory Fingerprint Records Check Determination letter is considered a Provisional Employee and may be present at a child care learning center or family child care learning home while children are present for care so long as s/he is under continuous and direct supervision of someone with a valid and current satisfactory Comprehensive Records Check Determination letter.

# Provider Questions- continued

4. My Employee received a satisfactory Comprehensive Records Check Determination clearance letter. What does that mean?

A Comprehensive Records Check Determination clearance letter is issued by DECAL after several checks have been conducted. For those who have only lived in GA during the past 5 years, this process includes a check of (1) the national FBI criminal history database based on fingerprint date, (2) the National Sex Offender database, (3) the Georgia sex offender database, and (4) the GA child abuse and neglect registry. For those who have lived in a state/territory/tribal land other than GA during the past 5 years, additional checks must be conducted.

Someone with a valid and current satisfactory Comprehensive Records Check Determination letter is considered an Employee and may be present at a child care learning center or family child care learning home while children are present for care. (Note: a Director must have a valid and current satisfactory Comprehensive Records Check Determination).

# Provider Questions- continued

5. Will there be any changes to Georgia's current volunteer policy?

There are no changes to Georgia's current volunteer policy. A volunteer can be present at a child care learning home or a family child care learning home once per calendar quarter (no more than once every 90 days) if supervised at all times by an employee with a valid and current satisfactory Comprehensive Records Check Determination and if not compensated. Someone who visits more frequently or who is compensated must go through the background check process.



# Additional Training



Coming Soon – Stay Tuned!

# Questions/ Comments



# Records Unit – Contact Us

- GEMALTO- for questions about registering to fingerprint or to find fingerprint locations
  - <https://www.aps.gemalto.com/ga/index.htm> (website)
  - 1-888-439-2512 (toll free phone)
- CRC Help Desk - for general questions or to check on the status of a letter
  - 1-855-884-7444 (toll free phone)
  - [CRCHelpDesk@DECAL.ga.gov](mailto:CRCHelpDesk@DECAL.ga.gov) (email)